

**Regulation to Establish a Statewide Portable Equipment  
Registration Program**

**~~(Effective September 1, 2005)~~**

**(As Adopted June 22, 2006)**

California Air Resources Board

Article 5 and sections 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459,  
2460, 2461, 2462, 2463, 2464, 2465 of Title 13, California Code of Regulations

## Article 5. Portable Engine and Equipment Registration

### § 2450. Purpose.

These regulations establish a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Portable engines and equipment units registered under the Air Resources Board program may operate throughout the State of California without authorization (except as specified herein) or permits from air quality management or air pollution control districts (districts). These regulations preempt districts from permitting, registering, or regulating portable engines and equipment units, including equipment necessary for the operation of a portable engine (e.g. fuel tanks), registered with the Executive Officer of the Air Resources Board except in the circumstances specified in the regulations.

NOTE: Authority cited: Section 39600, 39601, 41752, 41753, 41754, 41755, 43013(b), and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

### § 2451. Applicability.

- (a) Registration under this regulation is voluntary for owners and operators of portable engines or equipment units.
- (b) This regulation applies to portable engines and equipment units as defined in section 2452. Except as provided in paragraph (c) of this section, any portable engine or equipment unit may register under this regulation. Examples include, but are not limited to:
  - (1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;
  - (2) consistent with section 209 (e) of the federal Clean Air Act, engines and associated equipment used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; woodchippers; dredges; equipment necessary for the operation of portable engines and equipment units; and military tactical support equipment.

- (c) The following are not eligible for registration under this program:
- (1) any engine used to propel mobile equipment or a motor vehicle of any kind;
  - (2) any engine or equipment unit not meeting the definition of portable as defined in section 2452 (z) of this regulation;
  - (3) any equipment unit and its associated engine determined by the Executive Officer to qualify as part of a stationary source permitted by a district;
  - (4) any portable engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);
  - (5) any portable engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS). [Note: This shall not prevent statewide registration of engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];
  - (6) any dredging operation in the Santa Barbara Harbor;
  - (7) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;
  - (8) generators used for power production into the grid, except to maintain grid stability during an emergency event or other unforeseen event that affects grid stability; and
  - (9) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during unforeseen interruptions of electrical power from the serving utility, maintenance and repair operations, electrical upgrade operations that do not exceed 60 calendar days, operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator, or remote operations where grid power is unavailable. For interruptions of electrical power, the operation of a registered generator including startup, shutdown and testing shall not exceed the time of the actual interruption of power.
- (d) Any engine or equipment unit that loses eligibility for registration under this program shall apply for a permit with a district within 90 days of being notified of loss of eligibility. Registration shall remain valid and operation may continue under this article until the district grants or denies approval for the engine or equipment unit.

- (e) In the event that the owner or operator of a portable engine or equipment unit elects not to register under this program, the unregistered portable engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

§ 2452. Definitions.

- (a) **Air Contaminant** means any discharge, release, or other propagation into the atmosphere which includes, but is not limited to, smoke, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids, or any combination thereof.
- (b) **ARB** means the California Air Resources Board.
- (c) **Certified Nonroad Engine refers to an engine meeting an applicable nonroad engine emission standard as set forth in Title 13 of the California Code of Regulations or CFR 40 Part 89.**
- ~~(e)~~(d) **Corresponding Onshore District** means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.
- ~~(d)~~(e) **District** means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.
- ~~(e)~~(f) **Electrical Upgrade** means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.
- ~~(f)~~(g) **Emergency Event** means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.
- ~~(g)~~(h) **Engine** means any piston driven internal combustion engine.
- ~~(h)~~(i) **Equipment Unit** means equipment that emits PM<sub>10</sub> over and above that emitted from an associated portable engine.
- ~~(i)~~(j) **Executive Officer** means the Executive Officer of the California Air Resources Board or his/her designee.

- (j) **Existing Program Participant** means a company, public agency, or municipality with a unique name and mailing address that held registration prior to September 1, 2005.
- (k) **Hazardous Air Pollutant (HAP)** means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.
- (l) **Home District** means the district designated by the responsible official of the portable engine or equipment unit in which the portable engine or equipment unit resides most of the time. **For portable engines or equipment units based out-of-state, the responsible official shall designate the home district based on where the engine or equipment unit is likely to be operated.**
- (m) **Identical Replacement** means a substitution due to mechanical breakdown of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, model number, manufacturer's maximum rated capacity, and rated brake horsepower; and is intended to perform the same or similar function as the original portable engine or equipment unit; and has equal or lower emissions expressed as mass per unit time; and meets the emission control technology requirements of sections 2455 through 2457 of this article.
- (n) **In-field Inspection means an inspection that is conducted at the location that the portable engine or equipment unit is operated under normal load and conditions.**
- (o) **Location** means any single site at a building, structure, facility, or installation.
- (p) **Maximum Achievable Control Technology (MACT)** means any federal requirements promulgated as part of 40 CFR Parts 61 and 63.
- (q) **Maximum Rated Capacity** is the maximum throughput rating or volume capacity listed on the nameplate of the portable equipment unit as specified by the manufacturer.
- (r) **Maximum Rated Horsepower (brake horsepower (bhp))** is the maximum brake horsepower rating specified by the portable engine manufacturer and listed on the nameplate of the portable engine.
- (s) **Mechanical Breakdown** means any failure of an engine's electrical system or mechanical parts that necessitates the removal of the engine from service.
- (t) **Modification** means any physical change to, change in method of operation of, or an addition to an existing portable engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance

and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:

- (1) an increase in the production rate, unless such increase will cause the maximum design capacity of the portable equipment unit to be exceeded;
- (2) an increase in the hours of operation;
- (3) a change of ownership; and
- (4) the movement of a portable engine or equipment unit from one location to another.

**(tu) New Nonroad Engine** means a nonroad engine, the equitable or legal title to which has never been transferred to an ultimate purchaser. If the equitable or legal title to an engine is not transferred to an ultimate purchaser until after the engine is placed into service, then the engine will no longer be new after it is placed into service. A nonroad engine is placed into service when it is used for its functional purposes. The term "ultimate purchaser" means, with respect to a new nonroad engine, the first person who in good faith purchases a new nonroad vehicle or a new nonroad engine for purposes other than resale.

**(u) New Program Participant** ~~means a company, public agency, or municipality with a unique name and mailing address that did not hold registration prior to September 1, 2005.~~

**(v) New Source Performance Standard** means any federal requirement promulgated as part of 40 CFR Part 60.

**(w) Non-field Inspection means an inspection that is conducted at a location that is mutually acceptable to the district and the owner or operator and does not require operation of the engine or equipment unit for purposes of the inspection.**

**(w) ~~Non-operational~~** ~~means a portable engine or equipment unit that an owner or operator has demonstrated to the satisfaction of the Executive Officer as residing in California but not operating. A portable engine or equipment unit determined to be non-operational may not operate under the registration program.~~

**(x) Nonroad Engine** means:

- (1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any engine:
  - (A) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

- (B) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
- (C) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- (2) An engine is not a nonroad engine if:
- (A) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or
- (B) the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or
- (C) the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.
- (y) **Outer Continental Shelf (OCS)** shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.).
- (z) **Portable** means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:
- (1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or

- similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
- (2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
  - (3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.
- (aa) **Prevention of Significant Deterioration (PSD)** means any federal requirements promulgated as part of 40 CFR Part 52.
  - (bb) **Process** means any air-contaminant-emitting activity associated with the operation of a portable engine.
  - (cc) **Project, for the purposes of onshore operation**, means the use of one or more registered portable engines or equipment units operated under the same or common ownership or control to perform a single activity.
  - (dd) **Project, for the purposes of State Territorial Waters (STW)**, means the use of one or more registered portable engines and equipment units operating under the same or common ownership or control to perform any and all activities needed to fulfill specified contract work that is performed in STW. For the purposes of this definition, a contract means verbal or written commitments covering all operations necessary to complete construction, exploration, maintenance, or other work. Multiple or consecutive contracts may be considered one project if they are intended to perform activities in the same general area, the same parties are involved in the contracts, or the time period specified in the contracts is determined by the Executive Officer to be sequential.
  - (ee) **Registration** means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article, and the intent by the owner or operator to operate said portable engine or equipment unit within the requirements established by this article as it pertains to portable engines and equipment units.
  - (ff) **Rental Business** means a business in which the principal use of its engines or equipment units is to temporarily rent or lease for profit, portable engines or equipment units to operators other than the owner(s) of the engine or equipment unit.



- (gg) **Renter** means a person who rents a portable engine or equipment unit from a rental business.
- (hh) **Resident Engine** means: a portable engine that at the time of applying for registration, has a current, valid district permit or registration issued in accordance with local district requirements or lost a permit to operate exemption through a formal district action.
- (1) ~~a portable engine that at the time of applying for registration, has a current, valid district permit or registration issued in accordance with local district requirements, and an application for registration is submitted to the Executive Officer on or before December 31, 2005; or~~
- (2) ~~a portable engine that resided in the State of California at any time from July 1, 2003 to July 1, 2004 and an application for registration is submitted to the Executive Officer no later than December 31, 2005. The responsible official shall provide sufficient documentation to prove the portable engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation include but are not limited to: valid permits issued by a district, tax records, and usage or maintenance records.~~
- (ii) **Responsible Official** ~~is the~~ **refers to an** individual employed or otherwise retained by a **the** company, public agency, or municipality that has **public agency with** the authority to certify that the portable equipment **engines under his/her jurisdiction** complies with all applicable requirements of this article regulation. **A company or public agency may have more than one Responsible Official. A contracted designee cannot certify compliance in lieu of the Responsible Official.**
- (jj) **State Territorial Waters (STW)** includes all of the following: an expanse of water that extends from the California coastline to 3 miles off-shore; a 3 mile wide belt around islands; and estuaries, rivers, and other inland waterways.
- (kk) **Stationary Source** means any building, structure, facility or installation which emits any air contaminant directly or as a fugitive emission. "Building," "structure," "facility," or "installation" includes all pollutant emitting activities which:
- (1) are under the same ownership or operation, or which are owned or operated by entities which are under common control;
- (2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
- (3) are located on one or more contiguous or adjacent properties.

[Note: For the purposes of this regulation a stationary source and nonroad engine are mutually exclusive.]

- ~~(ii)~~ **Stick Test** means the process whereby a ruler or similar device is inserted perpendicular to the bottom of the fuel tank. From the wetted length of the ruler, the amount of fuel remaining in a tank of known dimensions can be calculated.
- ~~(mm)~~ **(ii) Storage** means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining portable engines or equipment units when not in operation.
- ~~(nn)~~ **(mm) Tactical Support Equipment (TSE)** means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.
- (nn) Third-party Rental means a non-rental business renting or leasing registered engines and/or equipment units to another party by written agreement. The written rental or lease agreement shall be kept onsite with the engine or equipment unit at all times.**
- (oo) Transportable** means the same as portable.
- (pp) Utility means a privately-owned company, subject to governmental regulation, that provides any essential commodity or service, such as water, electricity, natural gas, transportation, or communication, to the public.**
- (qq) Vendor means a seller or supplier of portable engines for use in California.**
- ~~(pprr)~~ **Volatile Organic Compound (VOC)** means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane),

HFC-152a (difluoroethane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:

- (1) cyclic, branched, or linear, completely fluorinated alkanes;
- (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (4) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, acetone, ethane, and parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).

**(qqss) U.S. EPA** means the United States Environmental Protection Agency.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2453. Application Process.

- (a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452 (z) and meet all applicable requirements established in this article.
- (b) For purposes of registration under this article, a portable engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.
- (c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within five calendar days of replacing the registered portable engine or equipment unit with an identical replacement. Notification shall include company name, responsible official, phone number, registration certificate number of the portable engine or equipment unit to be replaced; and make, model, rated brake horsepower, serial number of the identical replacement, description of the mechanical breakdown; and applicable fees as required in section 2461. Misrepresentation of portable engine or equipment unit information and failure to meet the requirements of this regulation shall subject the owner or operator to section 2465.
- (d) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient, within 30 days of receipt of an application. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete.

- (e) The Executive Officer shall issue or deny registration **within 90 days of receipt of an application.** according to the following schedule:
- ~~(1) within 90 days of receipt of an application, for applications received on or before December 31, 2005, except for applications containing only resident engines or only resident engines and equipment units which shall be 180 days from the date of receipt; and~~
  - ~~(2) within 90 days of receipt of an application, for applications received after December 31, 2005.~~
- (f) Upon finding that a portable engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the portable engine or equipment unit. The Executive Officer shall notify the applicant in writing that the portable engine or equipment unit has been registered. The notification shall include a registration certificate, any conditions to ensure compliance with ~~s~~State and federal requirements, and a registration identification device for each registered portable engine or equipment unit. Except for TSE, the registration identification device shall be affixed on the registered portable engine or equipment unit at all times, and the registration certificate shall be kept on the immediate premises with the portable engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain the registration identification device shall be deemed a violation of this article.
- (g) Except for TSE, each application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:
- ~~(1) indication of portable engine or equipment unit status (e.g., resident) and general nature of business (e.g., rental business, etc.);~~
  - ~~(2) indication of home district (optional);~~
  - ~~(32)~~ (3) the name of applicant, including mailing address and telephone number;
  - ~~(43)~~ (4) a brief description of typical portable engine or equipment unit use;
  - ~~(54)~~ (5) detailed description, including portable engine or equipment unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
  - ~~(65)~~ (6) necessary engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in sections 2455, 2456, and 2457;
  - ~~(76)~~ (7) for resident engines, a copy of a current permit to operate or a registration certificate that was granted by a district ~~or other proof of California residency~~ as described in section 2452 (hh); and
  - ~~(87)~~ (8) the printed name and signature of the responsible official and date of the signature.

(h) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:

- (1) the name of applicant, including mailing address and telephone number;
- (2) a brief description of typical portable engine or equipment unit use;
- (3) portable engine or equipment unit description, including type and rated brake horsepower; and
- (4) the printed name and signature of the responsible official and date of the signature.

**(i) All engines and equipment units shall have a designated home district as defined in Section 2452 (l) according to the following:**

- (1) entities holding valid registration(s) prior to the effective date shall designate in writing to the Executive Officer a home district within 90 days of the effective date of this regulation. The Executive Officer shall designate the home district for any and all portable engines and equipment units for existing participants that fail to designate a home district;**
- (2) a home district shall be designated on each application for initial registration of an engine or equipment unit; and**
- (3) except for rental businesses, if the engine or equipment unit, based on averaging of annual operation in each district from the three annual reports submitted during the 3 year registration cycle, operated the largest percentage of the time in a non-home district, the owner or operator shall change the home district designation at the time of renewal. The change is not required if the difference between the home district operation percentage and the district with the largest operating percentage is 5 percent or less.**

~~(i)(i)~~ Portable engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. ~~Portable engines or equipment units used primarily for purposes other than rental or not owned by a rental business shall not qualify for registration as a rental business.~~ Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall subject the owner or operator to section 2465 of this article.

~~(i)~~ Applications must be filed with the Executive Officer to change all registered non-operational engines and equipment units to operational status no later than 90 days after the effective date of these regulations, or the registrations will be cancelled.

- (k) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.
- (l) Once registration is issued by the Executive Officer, district permits or registrations for registered portable engines or equipment units are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be required:
  - (1) portable engines or equipment units used in a project(s) operating in the OCS. The requirements of the district permit or registration apply to the registered portable engine or equipment unit while operating at the project(s) in the OCS; or
  - (2) portable engines or equipment units used in a project(s) operating in both the OCS and STW. The requirements of the district permit or registration apply to the registered portable engine or equipment unit while operating at the project(s) in the OCS and STW; or
  - (3) at STW project(s) that trigger district emission offset thresholds; or
  - (4) at any specific location where statewide registration is not valid. The portable engine or equipment unit shall obtain a district permit or registration for the location(s) where the statewide registration is not valid; or
  - (5) ~~any~~ **at any location where an** engine or equipment unit ~~that~~ has been determined to cause a public nuisance as defined in Health and Safety Code Section 41700.

~~The~~ **Under no circumstance shall a** portable engine or equipment unit ~~shall not~~ be operated under both statewide registration and a district permit at any specific location. **Where both a district permit and statewide registration have been issued for a specific location, the district permit shall be valid and preempt the statewide registration for that location.**

- (m) When a registered engine or equipment unit ~~has been purchased~~ **changes ownership**, the new owner shall submit a change of ownership application. The existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid. Registration will be reissued to the new owner after a complete application has been approved by the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2454. Registration Process.

- (a) The Executive Officer shall make registration data available to the districts (e.g., on the Internet).

- (b) The Executive Officer may conduct an inspection of a portable engine or equipment unit and/or require a source test in order to verify compliance with the requirements of this article prior to issuance of registration.
- (c) After obtaining registration in accordance with this article, the owner or operator of the registered portable engines or equipment units may operate within the boundaries of the State of California so long as such portable engines or equipment units comply with all applicable requirements of this article and any other applicable federal or ~~s~~State law.
- (d) Districts shall provide the Executive Officer with written reports or electronic submittals via the Internet, describing any inspections and the nature and outcome of any violation of local, ~~s~~State or federal laws by the owner or operator of registered portable engines or equipment units. The Executive Officer will provide all districts with such information (e.g., on the Internet).

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2455. General Requirements.

- (a) The emissions from portable engines or equipment units registered under this article shall not, in the aggregate, interfere with the attainment or maintenance of California or federal ambient air quality standards. The emissions from any one portable engine or equipment unit, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring portable engine or equipment unit operators to provide emission offsets for a portable engine or equipment unit registered under this article.
- (b) Portable engines or equipment units registered under this article shall comply with article 1, chapter 3, part 4, division 26 of the California Health and Safety Code, commencing with section 41700.
- (c) Except for portable engines or equipment units permitted or registered by a district in which an emergency event occurs, a portable engine or equipment unit operated during an emergency event as defined in section 2452 (~~eg~~) of this article, is considered registered under the requirements of this article for the duration of the emergency event and is exempt from sections 2455, 2456, 2457, 2458, and 2459 of this article for the duration of the emergency event provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency event under this provision exists. If the Executive Officer deems that

an emergency event does not exist, all operation of portable engines and equipment units covered by this provision shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency event and failure to cease operation under notice of the Executive Officer is a violation of this article and may subject the owner or operator to section 2465 of this article.

- (d) For the purposes of registration under this article, the owner or operator of a registered portable equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:
- (1) the portable equipment unit operates at a facility defined as a major source under 40 CFR 51.166 or 52.21, and
    - (A) the facility is located within 10 kilometers of a Class I area; or
    - (B) the portable equipment unit, operating in conjunction with other registered portable equipment units, operates at the stationary source and its operation would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or
  - (2) the portable equipment unit, operating in conjunction with other registered portable equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2456. Engine Requirements

- (a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. No other requirements of this section are applicable to TSE.
- (b) Diesel pile-driving hammers shall comply with the applicable provisions of section 41701.5 of the California Health and Safety Code and are otherwise exempt from further requirements of this section.
- (c) To be registered in the Statewide Registration Program, a registered portable engine rated less than 50 brake horsepower shall **be a certified engine, unless** ~~comply with the most stringent requirements, if any, for its horsepower rating and~~



~~year of manufacture set forth in 40 CFR Part 89 or Title 13, California Code of Regulations. If no emission standards exist for that brake horsepower and year of manufacture at the time of registration, then the engine shall comply with the applicable daily and annual emission limits contained in section 2456 (g) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.~~

- (d) Portable engines registered under this article shall:
- (1) comply with the applicable daily and annual emission limits contained in section 2456 (g) of this article;
  - (2) use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, Title 13 of the California Code of Regulations, commencing with section 2250, or other fuels and/or additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;
  - (3) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent CO<sub>2</sub>;
  - (4) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
  - (5) except for an engine that qualifies as a resident engine, and applications for change of ownership, ~~applications filed on or before December 31, 2005, meet the most stringent emissions standard. After December 31, 2005, except for change of ownership, applications filed for new registration or identical replacement of a registered portable engine, must include only certified engines that meet the most stringent emissions standard in effect at the time the application is received or meet the emission standards in Table 1 for spark-ignition engines.~~ This provision in subsection (d)(5) does not apply to engines built under the flexibility provisions for equipment and vehicle manufacturers and post manufacture marinizers pursuant to 40 CFR part 89 or Title 13 of the California Code of Regulations;
  - (6) ~~after January 1, 2010, if rated 50 brake horsepower or above and not previously meeting a federal or California standard pursuant to 40 CFR Part 86, 40 CFR Part 89 or Title 13 of the California Code of Regulations meet the most stringent emissions standard (the registration for portable engines that previously did not meet the most stringent standards listed above shall expire on December 31, 2009, and the responsible official must reapply at this time and demonstrate compliance with the most stringent emissions standard). The requirements of this sub-section do not apply if the requirements of Title 13 of the California Code of Regulations Section 93116.3 are satisfied;~~
  - (76) meet all applicable requirements in Title 137 of the California Code of Regulations commencing with Ssection 93116; and
  - (87) ~~for the purpose of sub-sections (d), (g), and (h), the most stringent emissions standard shall be the current emissions standard in effect at the time an application is received and set forth in Title 13 of the California~~

Code of Regulations for that engine rating. If no emissions standard exists under the California Code of Regulations, then the current emissions standard set forth in 40 CFR Part 86 or 40 CFR Part 89 shall apply. If no standard exists under 40 CFR Part 86, or 40 CFR Part 89, then the current requirements of 40 CFR part 1048 or Table 1 for spark-ignition engines shall apply. Any **certified** engine meeting the most stringent emission standard, as defined above **in section 2452 (c) or any spark-ignition engine meeting Table 1 requirements**, is not subject to requirement (3) of sub-section (d).

- (e) A registered portable engine owned and operated by a rental business and designated for use as a rental engine shall have operational and properly maintained non-resettable hour meters or fuel flow meters for purposes of complying with the requirements of section 2458.
- (f) Any **All** registered portable engines that is subject to an hours of operation limitation shall be equipped with a **functioning** non-resettable hour meter, **fuel meter or other operation tracking device approved by the Executive Officer. Engines and equipment units registered prior to the effective date of this regulation, that are not equipped with a functional non-resettable hour meter, fuel meter or other operation tracking device shall install one and notify ARB in writing within 6 months of the effective date of this regulation.**
- (g) Registered portable engines shall not exceed the following emission limits:
  - (1) 550 pounds per day per engine of carbon monoxide (CO);
  - (2) 150 pounds per day per engine of particulate matter less than 10 microns (PM<sub>10</sub>);
  - (3) for registered portable engines operating onshore, 10 tons for each pollutant per district per year per engine for NO<sub>x</sub>, SO<sub>x</sub>, VOC, PM<sub>10</sub>, and CO in nonattainment areas;
  - (4) for registered portable engines operating within STW:
    - (A) the offset requirements of the corresponding onshore district apply. Authorization from the corresponding onshore district is required prior to operating within STW. If authorization is in the form of a current district permit, the terms and conditions of the district permit supercede the requirements for the project, except that the most stringent of the technology and emission concentration limits required by the district permit or statewide registration are applicable. If the portable engine does not have a current district permit, the terms and conditions of the statewide registration apply, and the corresponding onshore district may require offsets pursuant to district rules and regulations. The requirement for district offsets shall not apply to the owner or

- operator of a ~~s~~State registered engine(s) when the engine(s) is operated at a stationary source permitted by the district; and
- (B) the corresponding onshore district may perform an ambient air quality impact analysis (AQIA) for the proposed project prior to granting authorization. The owner or operator of ~~s~~State registered engine(s) shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Statewide registration shall not be valid at any location where the AQIA demonstrates a potential violation of an ambient air quality standard.
- (5) for engines operating in the South Coast Air Quality Management District (SCAQMD), 100 pounds nitrogen oxides (NOx) per project per day [An owner may substitute SCAQMD permit or registration limits in effect on or before September 17, 1997 (optional)];
- (6) 100 pounds NOx per engine per day, except in SCAQMD where the limit is 100 pounds NOx per project per day; and
- (7) in lieu of (5) and (6) above, operation of a new nonroad engine rated at 750 brake horsepower or greater for which a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day;
- (8) for engines that operate in both STW and onshore, the 10 tons per district per year per engine limit in (3) above shall only apply onshore; and
- (9) A portable **certified** engine meeting an applicable emissions standard, as set forth in Title 13 of the California Code of Regulations, 40 CFR Part 86, 40 CFR Part 89, or for spark-ignition engines that meet either the standards set forth in 40 CFR part 1048 or **an engine meeting** the applicable emissions standard set forth in Table 1 of this regulation, is exempt from the daily and annual emission limits specified above.
- (h) ~~Portable engines operated on a dredge shall meet the most stringent emission standard by January 1, 2005.~~
- (i) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.
- (j) ~~Engines initially registering after September 1, 2005 that provide power to or that are mounted on the same trailer or skid with equipment that is ineligible for registration and subject to district permits, including but not limited to boilers, heaters, hot mix asphalt plants, and soil remediation units, shall meet a federal or California standard for newly manufactured nonroad engines pursuant to 40 CFR part 89 or Title 13 of the California Code of Regulations.~~

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

Table 1 Spark-ignition Engine Requirements\*

<b>Pollutant Emission Limits or Control Technology</b>		
<b>NO<sub>x</sub>**</b>	<b>VOC**</b>	<b>CO**</b>
80 ppm <sub>dv</sub> NO <sub>x</sub> (1.5 g/bhp-hr)	240 ppm <sub>dv</sub> VOC (1.5 g/bhp-hr)	176 ppm <sub>dv</sub> CO (2.0 g/bhp-hr)

\* These requirements are in addition to requirements of section 2455 and 2456.

\*\* For the purpose of compliance with this article, ppm<sub>dv</sub> is parts per million @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppm<sub>dv</sub> are the approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 24.2 percent efficient.

## § 2457. Requirements for Portable Equipment Units

- (a) Emissions from a registered portable equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:
  - (1) 10 tons per year per district of PM<sub>10</sub>; and
  - (2) 82 pounds per project per day of PM<sub>10</sub>.
  - (3) For registered equipment units that operate within STW and onshore, emissions released while operating both in STW and onshore shall be included toward the 10 tons per year limit.
- (b) Portable equipment units shall also meet the following applicable requirements:
  - (1) Confined abrasive blasting operations:
    - (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
    - (B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;
    - (C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment;
    - (D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters; and

- (E) there shall be no visible emissions beyond the property line on which the equipment is being operated.
- (2) Concrete batch plants:
- (A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;
  - (B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;
  - (C) the silo vent filters shall be maintained in proper operating condition;
  - (D) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;
  - (E) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1;
  - (F) silo service hatches shall be dust-tight;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
  - (I) all aggregate transfer points shall be equipped with a wet suppression system to control fugitive particulate emissions unless there are no visible emissions;
  - (J) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
  - (K) wet suppression shall be used on all stockpiled material to control fugitive particulate emissions, unless the stockpiled material results in no visible emissions; and
  - (L) there shall be no visible emissions beyond the property line on which the equipment is being operated.
- (3) Sand and gravel screening, rock crushing, and pavement crushing and recycling operations:
- (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;

- (B) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (C) all transfer points shall be ducted through a fabric or cartridge type filter dust collector, or shall be equipped with a wet suppression system maintaining a minimum moisture content unless there are no visible emissions;
  - (D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or shall be equipped with a wet suppression system which maintains a minimum moisture content to ensure there are no visible emissions;
  - (E) all conveyors shall be covered, unless the material being transferred results in no visible emissions;
  - (F) all stockpiled material shall be maintained at a minimum moisture content unless the stockpiled material results in no visible emissions;
  - (G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;
  - (H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;
  - (I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and
  - (J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.
- (4) Unconfined abrasive blasting operations:
- (A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;
  - (B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see Title 17, California Code of Regulations, section 92530 for certified abrasives.];
  - (C) the abrasive material shall not be reused;
  - (D) no air contaminant shall be released into the atmosphere which causes a public nuisance;
  - (E) all applicable requirements of Title 17 of California Code of Regulations shall also apply; and
  - (F) there shall be no visible emissions beyond the property line on which the equipment is being operated.

- (5) Tub grinders and trommel screens:
- (A) there shall be no visible emissions beyond the property line on which the equipment is being operated;
  - (B) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark or darker than Ringelmann 1 or equivalent 20 percent opacity; and
  - (C) water suppression or chemical palliatives shall be used to control fugitive particulate emissions from the tub grinder whenever the tub grinder is in operation, unless there are no visible emissions.
- (c) Portable equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.
- (d) When changing any equipment unit or operating scenario or number of transfer points such that it shall result in a change to operating limits and/or conditions, a complete application for modification shall be filed and approved by the Executive Officer prior to operation.**
- ~~(de)~~ Registration is not valid for any equipment unit operating at a location if by virtue of the activity to be performed hazardous air pollutants will be emitted (e.g., rock crushing plant operating in a serpentine quarry. [Note: The equipment unit would be subject to the requirements of the district in which the equipment is located.]

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2458. Recordkeeping and Reporting.

- ~~(a) Any registered portable engine, except for engines operating in STW, that meets one of the following criteria is exempt from the requirements of this section, except for sub-sections (e) and (f):~~
- ~~(1) an applicable emissions standard as set forth in Title 13 of the California Code of Regulations, 40 CFR part 86, or 40 CFR Part 89; or~~
  - ~~(2) for spark ignition engines, the emissions standard set forth in 40 CFR part 1048 or set forth in Table 1 of section 2456.~~
- (ba)** Except for engines **and equipment units** owned by a rental business, **used in a third-party rental, operated by a utility,** and TSE, the owner of a registered portable engine subject to operational limitations, including engines otherwise

preempted under section 209 (e), or portable equipment units shall maintain daily records for each day of operation of each registered portable engine and equipment unit. The daily records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Daily records shall be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:

- (1) portable engine or equipment unit registration number;
- (2) ~~month, day and year;~~ recordings from an hour meter, fuel meter, or other device approved by the Executive Officer, and the corresponding dates of the recordings for each portable engine or equipment unit based on the following:
  - (A) for each project as defined in 2452 (cc) or (dd), readings shall be recorded prior to the commencement of operation and at the completion of the project; or
  - (B) for ongoing operation of a portable engine or equipment unit at multiple locations within a stationary source, readings shall be recorded at the beginning and end of each calendar week;  
or
  - (C) for each location, readings shall be recorded prior to commencement of operation and upon completion of operation at that location.
- (3) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer and the corresponding dates of the recordings any time a portable engine or equipment unit is undergoing service, repair, or maintenance; and the location(s) at which the portable engine or equipment unit was operated, identified by district, county, or specific location(s);
- (4) for each start and stop reading specified in (2) and (3) above, the location identified by district, county, or other indicator (i.e., street address, UTM coordinates, etc.) for equipment units, the total process weight or throughput;
- (5) ~~for engines that are subject to hours of operation limitations, actual hours of operation; and~~
- (6) ~~for engines that are subject to fuel use limitations, total fuel used in gallons:~~
  - (A) ~~for engines initially registering on or after September 1, 2005, daily fuel consumption shall be measured by fuel flow meter; and~~
  - (B) ~~for engines initially registering prior to September 1, 2005, daily fuel consumption shall be measured either by fuel flow meter, fuel tank stick test, or by fuel purchase records. If fuel purchase records or a stick test is used, the operator shall record the average operating load of the engine or use the approved operating load default factors, and the calculation approved by the Executive Officer to~~



~~determine the daily fuel use for the engine. The stick test shall be performed prior to the start of and after the shutdown of operations on any given day to determine the amount of fuel used on that day. For an engine that operates on a 24-hour basis, the stick test shall be performed once at the same time each day of uninterrupted operation, and then compared to the previous day's test to calculate daily fuel use.~~

- (~~eb~~) The owner of a registered portable engine **or equipment unit** owned by a rental **or third-party rental** business and designated for the purpose of renting, shall maintain records for each transaction. The owner shall provide each person who rents the portable engine with a written copy of applicable requirements of this article, including recordkeeping and notification requirements, as a part of the agreement. The records, including written acknowledgment by each renter of the portable engine of having received the above information, shall be maintained at a central location for five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, for each registered portable engine all of the following:
- (1) portable engine **or equipment unit** registration number;
  - (2) dates **for the start and end of the rental transaction** ~~portable engine left and returned to a rental yard; and~~
  - (3) hours of operation for each rental period **including the hour meter reading at the start of the rental transaction and the hour meter reading at the end of the rental transaction;** and
  - (4) **location of use (by district, county or other indicator (i.e., street address, UTM coordinates, etc.)) that was reported by the entity renting the portable engine or equipment unit for the rental period.**
- (~~ec~~) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year, and be accompanied by the applicable fees pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date.
- (~~e~~) ~~For generators used to provide power to a building, facility, stationary source, or stationary equipment during unforeseen interruptions of electrical power from the serving utility or during electrical upgrades, the owner or operator shall maintain a daily record that shall include the following:~~
- (1) ~~location;~~

- (2) ~~month, day, and year of operation; and~~  
(3) ~~hours of operation.~~
- (~~f~~**d**) For each engine subject to the requirements of Title 13~~7~~ California Code of Regulations section 93116, the owner shall keep records and submit reports in accordance with Title 13~~7~~ California Code of Regulations section 93116.4.
- (e) **Except for engines or equipment units owned by a rental business, used in a third-party rental, operated by a utility and TSE, the owner of a registered portable engine or equipment unit shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, within 60 days after the end of each calendar year containing all of the following information:**
- (1) **reporting year;**
  - (2) **registration number of each portable engine and/or equipment unit;**
  - (3) **for engines, quarterly summaries for each district or county of total fuel usage in gallons per quarter, or total hours of operation per quarter, for each portable engine; and**
  - (4) **for equipment units, quarterly summaries for each district or county of total process weight or throughput.**
- (f) **The owner of a registered portable engine or equipment unit owned by a rental business or used in a third-party rental and designated for the purpose of renting shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, within 60 days after the end of each calendar year containing all of the following information:**
- (1) **reporting year;**
  - (2) **portable engine or equipment unit registration number;**
  - (3) **total hours of operation for that year for each engine based on, and including, beginning and ending annual hour meter readings and dates upon which the total hours of annual operation calculation is based;**
  - (4) **list of all counties that the portable engine operated in during the reporting year as reported by the entity(ies) that operated the engine or equipment unit; and**
  - (5) **estimate of the percentage of total hours operated in each of the counties identified in (4) above.**
- (g) **The owner or operator of a registered portable engine or equipment unit used by a utility shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year containing all of the following information:**

- (1) reporting year;
  - (2) registration number;
  - (3) total hours of operation; and
  - (4) estimate of the percentage of hours or fuel usage for the three counties in which the portable engine or equipment unit operates the most.
- (h) Records requests made by a district or ARB shall be in writing to the responsible official. The responsible official shall provide the requested records within 30 days from receipt of the request. The records request shall only cover records maintained after the effective date of this regulation.
- (i) Each district shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, by March 31 of the following year all of the following information:
- (1) number of portable engines and equipment units inspected;
  - (2) number of portable engines and/or equipment units found operating without valid district permits or statewide registrations;
  - (3) number of registered engines and equipment units inspected; and
  - (4) summary of results of inspections.
- (j) “Vendors” selling new portable engines and/or portable equipment units in California shall:
- (1) notify the buyer about this regulation; and
  - (2) on a monthly basis submit to the Executive Officer the number of portable engines and/or portable equipment units sold for use in California

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2459. Notification.

- (a) Except as listed in sub-section (~~f~~**d**) of this section, if a registered portable engine or equipment unit will be in a district **at a location** for more than five days, the owner or operator or renter, shall notify the district in writing, via facsimile, electronic mail, or by telephone, within two working days of commencing operations in that district. **If the equipment unit is to be moved to different locations within the same district, the owner or operator shall be subject to the notification requirements above, unless the owner or operator and the**

**district, by mutual agreement, arrange alternative notification requirements on a case-by-case basis.** The notification shall include all of the following:

- (1) the registration number of the portable engine or equipment unit;
  - (2) the name and phone number of the responsible official with information concerning the locations where the portable engine or equipment unit will be operated within the district; and
  - (3) estimated time the portable engine or equipment unit will be located in the district.
- (b) If the district has not been notified as required in paragraph (a), because the owner or operator did not expect the duration of operation in the district to trigger the notification requirement, the owner or operator or renter ~~(except as noted in (c) below)~~, shall notify the district within 12 hours of determining the portable engine or equipment unit will be operating in the district **at a location** more than five days.
- ~~(c) Except as listed in sub-section (f) of this section, owners and operators of registered portable engines rated less than 200 brake horsepower and designated by the Executive Officer for rental use by a rental business are not subject to notification requirements.~~
- (~~d~~) Owners and operators of TSE are not subject to notification requirements.
- ~~(e) Except as listed in sub-section (f) of this section, owners and operators of registered portable engines or equipment units moving into the designated home district are not subject to notification requirements, providing the home district is identified at the time of registration.~~
- (~~f~~**d**) For STW projects, the owner and/or operator of such equipment shall notify the corresponding onshore district in writing, via facsimile, or by telephone, at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:
- (1) the registration number of the portable engine(s) or equipment unit(s);
  - (2) the name and phone number of the responsible official with information concerning the locations where the portable engine(s) or equipment unit(s) will be operated within the district;
  - (3) estimated time the portable engine(s) or equipment unit(s) will be located in the district; and
  - (4) estimation of actual emissions expected for the project.
- (e) Except as listed in sub-section (d) of this section, owners and operators of registered portable engines are not subject to notification requirements.**

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

§ 2460. **Inspections and** Testing.

- (a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect a portable engine or equipment unit and/or require a source test, at the owner's expense, in order to verify information submitted in the application except as provided in section 2460 (de).
- (b) **Each district shall inspect all portable engines and equipment units registered with the statewide registration for which the district in question is designated as the home district, as specified below:**
  - (1) **Within 45 days after the date of initial issuance or renewal of a registration, the owner or operator shall contact the home district to arrange for inspection of the portable engine or equipment unit to be completed within one year of the initial registration or renewal date. If the portable engine or equipment unit shall be operating in a district, other than the home district, for an extended period of time, the owner or operator may request the home district to arrange for an inspection by that other district.**
  - (2) **For portable engines, each district shall conduct no more than 20 percent of the arranged inspections for that district as in-field inspections. All arranged inspections not conducted as in-field inspections shall be conducted as non-field inspections. If a portable engine or equipment unit is found in violation during an in-field inspection, the next arranged inspection for that engine or equipment unit shall be an in-field inspection. This section does not limit the authority of a district to conduct any number of non-arranged in-field or non-field inspections for which no fee is charged.**
  - (3) **For portable equipment units operating with a portable engine, the owner or operator may request that the portable engine be inspected under the arranged inspection program or together with the equipment unit at the hourly rate specified in Table 2.**
  - (4) **Arranged inspections for a utility-registered portable engines and portable equipment units shall be non-field inspections unless an in-field inspection is requested by the holder of the registration and a reasonable in-field inspection location is arranged with the appropriate district.**

- (5) The time for an arranged inspection shall be agreed upon in advance with the district and company preferences regarding time of day shall be accommodated within reason. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time based on a fee as specified in Table 2.
- (6) If an arranged inspection of a portable engine or equipment unit does not occur due to unforeseen circumstances, the owner or operator and the home district shall reschedule the arranged inspection. The owner or operator shall not unreasonably withhold the scheduling of the inspection in an attempt to circumvent the in-field inspection process.
- (7) The owner or operator may request the scheduling of one or more arranged inspections for multiple portable engines in order to qualify for an inspection fee discount. Within 45 days of date of initial issuance of registration or by January 30 of each year for renewals, the owner or operator shall submit a letter of intent including an equipment list and registration numbers to the district to arrange for inspection of multiple portable engines. The inspections shall be completed within one year after the registration renewal date for each portable engine inspected.
- (8) If a portable engine or equipment unit is out-of-state (or country) for one year or more following the registration renewal date, the engine or equipment unit shall be excused from having the arranged inspection within that period if:
- (A) the owner or operator pays the inspection fee;
  - (B) within 45 days after the date of initial issuance or renewal of the registration, the owner or operator submitted a letter to the district noting the registration number of the portable engine or equipment unit and that the engine or unit is out-of-state for the one-year period; and
  - (C) upon the return of the portable engine or equipment unit to the State, the owner or operator shall arrange to have the portable engine or equipment unit inspected within 30 days.
- (b~~c~~) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered portable engine or equipment unit in order to verify compliance with the requirements of this article. However, the district shall not charge the owner or operator an additional inspection fee for that inspection. However, ~~s~~Source testing of engines for compliance purposes shall not be required more frequently than once every three years (including testing at the time of registration), except as provided in section 2460 (~~de~~), unless evidence

of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a portable engine for which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

- (ed) Testing shall be conducted in accordance with the following methods or other methods approved by the Executive Officer:

Particulate Matter:	ARB Test Method 5 with probe catch and filter catch only
VOC:	ARB Test Method 100 or U.S. EPA Test Method 25A
NOx:	ARB Test Method 100 or U.S. EPA Test Method 7E
Carbon Monoxide:	ARB Test Method 100 or U.S. EPA Test Method 10
Oxygen:	ARB Test Method 100 or U.S. EPA Test Method 3A
Gas Velocity and Flow Rate:	ARB Test Method 1 & 2 or U.S. EPA Test Method 1 & 2

- (de) Initial or follow-up source testing of engines to verify compliance with the requirements of this regulation shall not be required for certified engines. the following:

- ~~(1) engines certified to satisfy the most stringent emissions standards for the applicable horsepower range specified for State or federal newly-manufactured engines pursuant to Title 13 of the California Code of Regulations, 40 CFR Part 86, or 40 CFR Part 89; or~~
- ~~(2) engines certified to meet the most stringent emissions standards for the applicable horsepower range specified for State or federal on-highway engines pursuant to Title 13 of the California Code of Regulations; or~~
- ~~(3) engines that are retrofitted to meet the most stringent emissions standards for the applicable horsepower range specified for State or federal newly-manufactured engines pursuant to Title 13 of the California Code of Regulations or 40 CFR Part 89, where the retrofit kit has undergone testing consistent with the applicable certification procedures.~~

- (ef) The exemption provided in section 2460 (de) shall not apply to source testing of engines for compliance purposes where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

§ 2461. Fees.

- (a) The Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.
- (b) Fees shall be due and payable to the Executive Officer at the time an application is filed or as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.
- (c) The owner or operator of a portable engine or equipment unit shall submit fees to the Executive Officer in accordance with Table 2. ~~Until December 31, 2005, new program participants shall pay an increased registration fee in accordance with Table 2. This increased fee shall not apply to agricultural sources or new program participants who have lost permit exemption due to the lowering of the maximum rated horsepower (bhp) permit requirement threshold.~~
- ~~(d) Prior to switching from non-operational to operational status, the owner or operator shall pay the applicable fee as listed in Table 2. The Executive Officer shall verify that the portable engine or equipment unit meets the requirements of this article prior to operation of the portable engine or equipment unit.~~
- (ed) A district may **The Executive Officer shall** collect an inspection fee as listed in Table 2 one time per **every three** calendar years for each registered **engine** TSE unit **to be paid upon initial application and renewal** inspected. When multiple registered portable **non-TSE engines** TSE units are inspected at a given source or location, the **owner shall receive a discount if the owner intends to arrange multiple engines inspections with the local district and complies with the requirements specified in section 2460(b)(7). The discounts shall be applied as follows:**
  - (1) **no discount for 1 to 3 engines**
  - (2) **25 percent discount for 4 to 9 engines**
  - (3) **35 percent discount for 10 or more engines**

~~inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or the fee as listed in Table 2 per registered portable engine or equipment unit inspected. If the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee as listed in Table 2 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.~~



- (fe) Failure to pay renewal fees when due shall result in penalties. If a fee payment is not received or postmarked by the specified due date, fee penalties shall be assessed per unit in accordance with Table 2. Failure to pay renewal fees prior to expiration shall result in cancellation of the registration. If a registration has expired for an engine or equipment unit that is eligible for reinstatement **reactivation**, a canceled registration may be reinstated **reactivated** after payment of all renewal and penalty fees. Registration shall be reissued under the original registration number and expiration date. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.
- (gf) Fees shall be periodically revised by the Executive Officer in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.
- (hg) **An air district may collect a fee for the inspection of a portable equipment unit pursuant to section 2460. The air district shall bill the owner of the equipment unit at a rate as specified in Table 2 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Table 2. Upon receipt of the invoice for the inspection fee, the operator shall have the right to appeal the district's fee determination to the district Air Pollution Control Officer/Executive Officer pursuant to the provisions of the district's rules and regulations that govern appeals of fee determinations.** ~~In lieu of section 2461 (e) above, a district may collect a fee, in an amount to be assessed by the district, for costs associated with implementing and enforcing the requirements of 40 CFR Part 60 Subpart OOO for each registered equipment unit subject to Subpart OOO. In no event shall the fee assessed exceed the actual costs, including staff time, to the district for implementing and enforcing Subpart OOO. If for reasonable cause, the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee per portable equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.~~
- (h) **The Executive Officer shall collect district inspection fees composed of a general inspection fee and a home district inspection fee as specified in Table 2 at the time of initial registration and renewal for each portable engine. In addition, the Executive Officer shall collect general inspection fees as specified in Table 2 at the time of registration and renewal for each portable equipment unit.**
- (i) **The Executive Officer shall annually distribute district inspection fees collected for that year. General inspection fees will be distributed equally**

**among the districts. Home district inspection fees will be distributed to the corresponding home district.**

- (i) TSE fees are due at the time of the report pursuant to section 2458 (d~~c~~). Failure to submit the annual report and applicable fees within six calendar months after the end of the year will result in cancellation of the registration. For TSE, if registration is cancelled or allowed to expire, the applicant shall reapply and pay initial registration fees.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

Table 2 Fees for Statewide Registration Program  
(Fees are per registered unit except where noted otherwise)

1	Initial Registration	<b>\$270.00</b>
a	<del>existing program participants until 12/31/05; all applicants thereafter (3 year cycle)</del>	<del>\$270.00</del>
b	<del>existing program participants until 12/31/05; all applicants thereafter (5 year cycle)</del>	<del>\$450.00</del>
c	<del>new program participants until 12/31/05, except applicants that lost permit exemption (3 year cycle)</del>	<del>\$370.00</del>
d	<del>new program participants until 12/31/05, except applicants that lost permit exemption (5 year cycle)</del>	<del>\$550.00</del>
2	Tactical support equipment, initial registration	
a	Registration of first 25 units (or portion thereof)	\$750.00
b	Registration of every additional 50 units (or portion thereof)	\$750.00
3	Change of status from non-operational to operational	
a	Where initial evaluation has not been previously completed	\$180.00
b	Where initial evaluation has been previously completed	\$90.00
4	Identical replacement	\$75.00
5	Renewal, non-TSE	<b>\$225.00</b>
a	<del>Every 3 years</del>	<del>\$225.00</del>
b	<del>Every 5 years</del>	<del>\$375.00</del>
6	Penalty fee for late renewal payments, non-TSE	
a	Postmarked within 2 calendar months prior to registration expiration date	\$45.00
b	Postmarked within the calendar month prior to registration expiration date	\$90.00
c	Postmarked after the registration expiration date	\$250.00
7	Annual TSE inventory fee	
a	first 25 units (or portion thereof)	\$375.00
b	every additional 50 units (or portion thereof)	\$375.00
8	Modification to registered portable engine or equipment unit	\$75.00
9	Change of ownership	\$75.00
10	Replacement of registration identification device	\$30.00
11	Correction to an engine or equipment unit description	\$45.00
12	Update company information, copy of registration documents	\$45.00
13	Copy of registration documents	\$45.00
14	<del>Total district inspection fee per registered portable engine, <u>paid once every 3 years</u> or equipment unit inspected</del>	<del>\$75.00</del> <b>\$345.00</b>
a	<b><u>General district inspection fee</u></b>	<b>\$30.00</b>
b	<b><u>Home district inspection fee</u></b>	<b>\$315.00</b>
15	<b><u>District off-hour service fee per hour</u></b>	<b>\$50.00</b>
16	<b><u>District inspection fees for equipment units</u></b>	

<u>a</u>	<u>General district inspection fee, paid once every 3 years</u>	<u>\$75.00</u>
<u>b</u>	<u>District inspection fee per equipment unit, per hour</u>	<u>\$98.00 (not to exceed \$500.00)</u>
<u>17</u>	<u>General District inspection fee per TSE unit</u>	<u>\$10.00</u>

#### 2462. Duration of registration.

- (a) Except as provided for in section 2456(d)(6), registrations and renewals will be valid for either three or five consecutive years from date of issuance. A new program participant must choose either the three year or five year duration period for all current and future registrations at the time of initial application submittal. An existing program participant may choose to convert to the five year duration period for all registrations which shall be reissued upon renewal only. The existing program participant shall submit a written request for this conversion. For change of ownership, the registration shall retain the original expiration date and upon renewal shall be converted to the duration period chosen by the new owner, if different than the duration period of the previous owner. Once a registration duration period is chosen by a program participant, it shall not be changed.
- (b) The Executive Officer shall mail to the owner or operator of a registered portable engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration. Failure to send or receive a renewal invoice does not relieve the responsible official from paying all applicable fees when due.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2463. Suspension or revocation of registration.

- (a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:
- (1) the holder of registration has violated one or more terms and conditions of registration or has refused to comply with any of the requirements of this article;
  - (2) the holder of registration has materially misrepresented the meaning, findings, effect or any other material aspect of the registration application, including submitting false or incomplete information in its application for

- registration regardless of the holder's personal knowledge of the falsity or incompleteness of the information;
- (3) the test data submitted by the holder of registration to show compliance with this regulation have been found to be inaccurate or invalid;
  - (4) enforcement officers of the ARB or the Districts, after presentation of proper credentials, have been denied access, during normal business hours or hours of operation, to any facility or location where registered portable engines and equipment units are operated or stored and are prevented from inspecting such engines or equipment units as provided for in this article (the duty to provide access applies whether or not the holder of registration owns or controls the facility or location in question);
  - (5) enforcement officers of the ARB or the Districts, after presentation of proper credentials, have been denied access to any records required by this regulation for the purpose of inspection and duplication;
  - (6) the registered portable engine or equipment unit has failed in-use to comply with the findings set forth in the registration. For the purposes of this section, noncompliance with the registration may include, but is not limited to:
    - (A) a repeated failure to perform to the standards set forth in this article; or
    - (B) modification of the engine or equipment unit that results in an increase in emissions or changes the efficiency or operating conditions of such engine or equipment unit, without prior notice to and approval by the Executive Officer; or
  - (7) the holder of registration has failed to take requested corrective action as set forth in a Notice of Violation or Notice to Comply within the time period set forth in such notice.
- (b) A registration holder may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.
  - (c) The Executive Officer shall notify each holder of registration by certified mail of any action taken by the Executive Officer to suspend or revoke any registration granted under this article. The notice shall set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.
  - (d) A party having received a notice to revoke or suspend registration may request that the action be stayed pending a hearing under section 2464. In determining whether to grant the stay, the Executive Officer shall consider the reasonable likelihood that the registration holder will prevail on the merits of the appeal and the harm the registration holder will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the

public health, safety, and welfare outweigh the harm to the registration holder if the stay is not granted.

- (e) Once a registration has been suspended pursuant to (a) above, the holder of registration shall satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.
- (f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.
- (g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

## § 2464. Appeals.

### (a) Hearing Procedures

- (1) Any applicant for, or a holder of, registration whose application or registration has been denied, suspended, or revoked may request a hearing to review the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:
  - (A) name of applicant or registration holder;
  - (B) registration number;
  - (C) copy of the Executive Order revoking or suspending registration or the written notification of denial;
  - (D) a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial, suspension, or revocation (mere conclusory allegations will not suffice);
  - (E) a brief summary of evidence in support of the statement of facts required in (D) above; and
  - (F) the signature of an authorized person requesting the hearing.
- (2) A request for a hearing shall be filed within 20 days from the date of issuance of the notice of the denial, suspension, or revocation.

- (3) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the registration at issue. In a request for a hearing of a denial of registration, after reviewing the request for a hearing and supporting documentation provided under subsection (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.
- (4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.
- (5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:
- (A) the determination issued by the Executive Officer which is the subject of the request for hearing;
  - (B) the request for hearing and the supporting documents that are submitted with it;
  - (C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and
  - (D) correspondence and other documents material to the hearing.
- (6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
- (7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.
- (8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.
- (9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
- (10) The hearing shall be recorded either electronically or by a certified shorthand reporter.

**(11) The hearing officer shall consider the totality of the circumstances of The denial, suspension, or revocation, including but not limited to, Credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.**

**(12) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.**

**(11)(13) Within 30 days of the conclusion of a hearing** If a hearing is held, the hearing officer shall ~~render~~ **submit** a written **proposed** decision, **including proposed finding as well as a copy of any material submitted by the hearing participants as part of that hearing, to the Executive Officer.** ~~within 30 working days from the last day of hearing.~~ The hearing officer may ~~do~~ **recommend to the Executive Officer** any of the following:

- (A) uphold the denial, suspension, or revocation action as issued;
- (B) reduce a revocation to a suspension;
- (C) increase a suspension to a revocation if the registration holder's conduct so warrants; ~~and~~ **or**
- (D) overturn a denial, suspension, or revocation in its entirety.

(12) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.

(13) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.

**(14) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:**

- (A) adopt the hearing officer's proposed decision;**
- (B) modify the hearing officer's proposed decision; or**
- (C) render a decision without regard to the hearing officer's proposed decision.**

(b) Hearing conducted by written submission.

(1) In lieu of the hearing procedure set forth in (a) above, an applicant may request that the hearing be conducted solely by written submission.



- (2) In such case the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:
- (A) ARB staff shall submit a written response to the requestor's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
  - (B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
  - (C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
  - (D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and documents and ~~render~~ **submit a proposed** written decision **and such other documents as described in (a) 13 above - to the Executive Officer** ~~The hearing officer's decision shall be mailed to the requestor no later than 30 working days after the final deadline for submission of papers.~~ **The Executive Officer's final decision shall be mailed to the requestor no later than 60 days after the final deadline for submission of papers.**
  - (E) **The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:**
    - (1) **adopt the hearing officer's proposed decision;**
    - (2) **modify the hearing officer's proposed decision; or**
    - (3) **render a decision without regard to the hearing officer's proposed decision.**

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.

#### § 2465. Penalties.

Violation of the provisions of this article may result in a nuisance, civil, and/or criminal violations pursuant to the California Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754, and 41755, Health and Safety Code.